

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SAINT-GOBAIN AUTOVER USA, INC., et al.,	:	CASE NO. 1:06cv2781
	:	
Plaintiffs,	:	Judge Sara Lioi
	:	
v.	:	
	:	
XINYI GLASS NORTH AMERICA, INC., et al.,	:	
	:	
Defendants.	:	

**SAINT-GOBAIN’S UNOPPOSED MOTION TO
VACATE JUDGMENT AND DISMISS CASE WITH PREJUDICE**

Plaintiffs Saint-Gobain Autover USA, Inc., Saint-Gobain Sekurit Mexico S.A. DE C.V., and Saint-Gobain Sekurit USA, Inc. (“Saint-Gobain”) and Defendants Xinyi Glass North America, Inc. and Xinyi Automobile Glass Co., Ltd. (“Xinyi”) have settled this matter. Accordingly, Saint-Gobain respectfully moves this honorable Court to vacate the judgment entered against Xinyi and to dismiss this action with prejudice.

The parties’ settlement agreement in this matter resolves all outstanding litigation between the parties, including other litigation between the parties filed in the People’s Republic of China. In fact, in reliance on the parties’ executed settlement agreement, Xinyi has today withdrawn its pending claim against Saint-Gobain in the People’s Republic of China. Resolution

of multiple actions is a factor that weighs in favor of allowing vacatur, *Freedom Wireless, Inc. v. Boston Communs. Group, Inc.*, No. CV 00-12234, 2006 U.S. Dist. LEXIS 95871, at * 6 (D. Mass. Oct 12, 2006), particularly where, as here, one of the parties has already acted in reliance upon the executed settlement agreement. Moreover, because this Court is being asked to vacate its own judgment, extraordinary circumstances may not be required for vacatur. *See American Games, Inc. v. Trade Products., Inc.*, 142 F.3d 1164 (9th Cir. 1998) (noting that district courts enjoy greater discretion over their own judgments).

Furthermore, Saint-Gobain states that vacatur of the judgment will not affect the precedential value of the decisions of this Court. The parties seek only to vacate the judgment and do not seek vacatur of any of the Court's prior decisions, thus preserving the rights of other litigants to rely on these decisions and ensuring that the public interest in litigation is maintained. *Mayes v. City of Hammond*, 631 F. Supp. 2d 1082, 1089-90 (N.D. Ind. 2008).

This motion is made pursuant to Rules 60(b) and 41(a) of the Federal Rules of Civil Procedure. Counsel for Xinyi has authorized counsel for Saint-Gobain to state that Xinyi does not oppose this motion. A proposed order is attached.

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Respectfully submitted:

/s/ Matthew D. Ridings

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically this 23rd day of August, 2010. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Matthew D. Ridings

Kip T. Bollin (#0065275)

Matthew D. Ridings (#0079402)

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**ORDER GRANTING SAINT-GOBAIN'S UNOPPOSED MOTION TO
VACATE JUDGMENT AND DISMISS CASE WITH PREJUDICE**

The Court having been informed that the Parties have settled this Action; now, upon Plaintiffs' motion pursuant to Federal Rule of Civil Procedure 60(b) (Dkt. 266), the Judgments entered on or about March 31, 2010 and April 13, 2010 (Dkts. 242 and 245), are hereby vacated; however, this Order does not affect any other opinion or order of this Court except for the Judgment described above.

Plaintiffs' motion to dismiss pursuant to Federal Rule of Civil Procedure 41(a)(2) is also granted. This matter is hereby dismissed with prejudice. All pending dates and motions are hereby stricken as moot.

IT IS SO ORDERED.

Date

United States District Judge Sara Lioi